

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION OF)	
KENERGY CORP. AND BIG RIVERS ELECTRIC)	CASE NO.
CORPORATION FOR APPROVAL OF)	2016-00117
CONTRACTS)	

ORDER

On March 31, 2022, Big Rivers Electric Corporation (BREC) filed a motion, pursuant to 807 KAR 5:001, Section 13, and KRS 61.878, requesting that the Commission grant confidential treatment for 14 years for an annual report filed in accordance with the June 30, 2016 Order in this proceeding.

BREC argued that the redacted material is exempt from public disclosure under KRS 61.878(1)(c)(1) which exempts “[r]ecords confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records.”

The redacted information consists of the economic development rate, revenue, and costs related to a special contract with Aleris Rolled Products, Inc. (Aleris). BREC argued that under KRS 61.878(1)(c)(1), the redacted information should be confidential because Aleris would be disadvantaged competitively by disclosure and BREC would be disadvantaged because it is a participant in energy markets, and disclosure of what it pays for energy would be detrimental. BREC further argued that public disclosure of the designated material could harm BREC in future negotiations for similar special contracts.

Having considered the motion and the material at issue, the Commission finds that BREC's motion for confidential treatment of the designated material in the annual report should be granted. This is because the designated material, if disclosed, would disadvantage BREC with its competitors, who could use the information in the energy market with knowledge of BREC's energy purchase history. In addition, public disclosure of this information could harm BREC in negotiating future special contracts. It therefore meets the criteria for confidential treatment and is exempted from public disclosure for 14 years pursuant to 807 KAR 5:001E, Section 13, and KRS 61.878(1)(c)(1).

IT IS THEREFORE ORDERED that:

1. BREC's March 31, 2022 motion for confidential treatment is granted.
2. The designated material granted confidential treatment by this Order shall not be placed in the public record or made available for public inspection for 14 years or until further Order of this Commission.
3. Use of the designated material granted confidential treatment by this Order in any Commission proceeding shall comply with 807 KAR 5:001E, Section 13(9).
4. BREC shall inform the Commission if the designated material granted confidential treatment by this Order becomes publicly available or no longer qualifies for confidential treatment.
5. If a nonparty to this proceeding requests to inspect the material granted confidential treatment by this Order and the period during which the material has been granted confidential treatment has not expired, BREC shall have 30 days from receipt of written notice of the request to demonstrate that the material still falls within the exclusions from disclosure requirements established in KRS 61.878. If BREC is unable to make

such demonstration, the requested material shall be made available for inspection. Otherwise, the Commission shall deny the request for inspection.

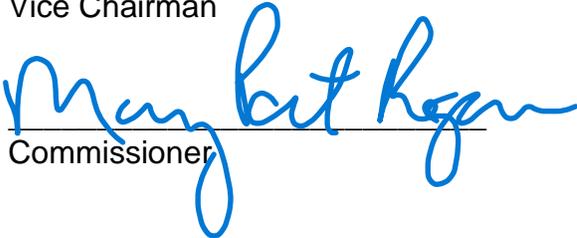
6. The Commission shall not make the requested material available for inspection for 30 days from the date of service of an Order finding that the material no longer qualifies for confidential treatment in order to allow BREC to seek a remedy afforded by law.

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PUBLIC SERVICE COMMISSION


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Vice Chairman


Commissioner



ATTEST:


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